

Insolvency of a dependant person and its group consequences

Abstract

The thesis deals with the consequences that the Czech Act on Business Corporations and the Insolvency Act provides for the case of bankruptcy of a dependant entity in relation to the remaining entities in the group. First, the general conceptual bases are discussed and the value of the principles of limited liability and individual legal personality in the context of the business group is explained. One chapter is devoted to international issues that arise in the context of bankruptcy within business groups, that is, both private international law and harmonization issues. The importance of harmonization is explained with reference to universalism, the leading way of thinking in solving cross-border bankruptcy, and in other parts of the thesis, Czech law is compared with the international standards of insolvency law of UNCITRAL and the World Bank. Furthermore, the ways in which the liability of a group member for the debts of an insolvent corporation can be inferred are analyzed. These include, in particular, the English law inspired wrongful trading regime contained in s. 68 of the Act on Business Corporations and the liability of the dominant entity for the debts of the dependant entity if the dominant entity causes the dependant entity to go bankrupt. In this part there is a comparison with the English law version and an evaluation of the discussed amendment to the Act on Business Corporations. The issue of balancing harm within a group is also analyzed and the effect of bankruptcy on it, depending on whether or not it is caused by the dominant entity. Part of the work is devoted to avoidance of transactions in the context of business groups. The following chapter deals with the substantive consolidation and procedural coordination of insolvency proceedings of more than one member of a group and concludes with procedural questions that have an impact on related parties during insolvency proceedings. Among them, the issue of related parties' voting rights and the newly introduced obligation to prove the beneficial owner are addressed.

Key words: dependant entity insolvency